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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,594

08/11/2005

Stuart Charles Wray

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EXAMINER

ELAHEE, MD S

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/532,594

Applicant(s)

WRAY ET AL.

Examiner

Md S. Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 04/25/2005, 08/11/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on April 25, 2005 and August 11, 2005 were received. The submission of IDS on April 25, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement submitted on April 25, 2005 is being considered by the examiner.
2. Since the IDS submitted on August 11, 2005 was not signed by Gary R. Edwards the submission is not in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement submitted on August 11, 2005 is not being considered by the examiner.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show a legend describing the labels on the Figures 1-3 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the

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remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

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- (I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 2, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prehofer (U.S. Patent No. 6,958,974) in view of Yamamoto et al. (Japanese Pub. No. 2003-249945).

Regarding claim 1, with respect to Figure 1, Prehofer teaches a method of call for Voice over IP [i.e., continuous streams of data] in packet switched networks including at least two local area networks (Fig.1; DK and ZK) communication with one another across a connecting network (Fig.1; ZW1 to ZW4), the method comprising the steps of:

determining a demanded quality grade [i.e., acceptable packet loss rate] for a call which is to be established between two of the local area networks (col.3, lines 11-18, col.5, lines 12-45);

Prehofer further teaches comparing acknowledged quality grade [i.e., actual packet loss rate] to the demanded quality grade [i.e., acceptable packet loss rate] (col.3, lines 18-38, col.5, lines 37-45).

However, Prehofer does not specifically teach dropping the call if the actual packet loss rate is greater than the acceptable packet loss rate. Prehofer suggests that data transmission needs to be terminated if the data service quality is being too poor (col.2, line 67-col.3, line 3). Yamamoto teaches disconnecting [i.e., dropping] the call if the actual packet loss rate is greater than the acceptable packet loss rate (page 4, paragraphs 0011, 0012). Thus, it would have been

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obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer to incorporate the feature of dropping the call if the actual packet loss rate is greater than the acceptable packet loss rate in Prehofer's invention as taught by Yamamoto. The motivation for the modification is to do so in order to discontinue a poor quality call such that a user can save cost for the call.

Regarding claim 2, Prehofer, as applied to claim 1, does not specifically teach determining for how long a period the actual packet loss rate has been happening and utilizing that period in deciding to drop the call. Yamamoto teaches determining packetizing period [i.e., for how long a period] the actual packet loss rate has been happening and utilizing that period in deciding to disconnect [i.e., drop] the call (page 4, paragraphs 0011, 0012). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer to incorporate the feature of determining for how long a period the actual packet loss rate has been happening in Prehofer's invention as taught by Yamamoto for utilizing that period in deciding to drop the call. The motivation for the modification is to do so in order to estimate total packets loss for a call in a particular period of time such that the system can reduce the overflow of data traffic by dropping the call after comparing the estimated packets loss with an acceptable total number of packets loss for the call.

Regarding claims 4 and 7, Prehofer, as applied to claims 2 and 1, teaches changing the priority of the transmission of the continuous stream of data when the actual packet loss rate is not acceptable and repeating steps a) to c) (col.3, lines 27-35, 46-61, col.5, lines 45-59).

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9. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prehofer in view of Yamamoto et al. further in view of Kalmanek, Jr. et al. (U.S. Patent No. 7,245,610).

Regarding claims 3 and 6, Prehofer, as applied to claims 2 and 1, in view of Yamamoto does not specifically teach playing a recorded announcement when the call is to be dropped. Kalmanek teaches playing a recorded announcement when the call is to be dropped (fig.13; col.54, lines 41-58, col.55, lines 3-9). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer in view of Yamamoto to incorporate the feature of playing a recorded announcement when the call is to be dropped in Prehofer's invention in view of Yamamoto's invention as taught by Kalmanek. The motivation for the modification is to do so in order to inform a caller about the status of the call connection such that that the caller can try again later and do other work instead of calling up the same number again and again.

10. Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prehofer in view of Yamamoto et al. further in view of Kalmanek, Jr. et al. further in view of Wu (U.S. Pub. No. 2005/0147052).

Regarding claims 5 and 8, Prehofer, as applied to claims 3 and 6, in view of Yamamoto further in view of Kalmanek does not specifically teach storing data relating to dropped calls for future use. Wu teaches storing data relating to dropped calls for future use (page 2, paragraphs 0024, 0027). Thus, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify Prehofer in view of Yamamoto further in view of Kalmanek to incorporate the feature of storing data relating to dropped calls in Prehofer's invention in view of Yamamoto's invention further in view of Kalmanek's invention as taught by Wu for future use. The motivation for the modification is to do so in order to record call processing failure such that troubleshooting can be done in order to correct the call processing failure. Furthermore, the modification of storing the dropped calls/call processing failure data and correcting the data gives additional benefit of improving overall system performance.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Prehofer in view of Yamamoto et al. further in view of Wu (U.S. Pub. No. 2005/0147052).

Regarding claim 9, Prehofer, as applied to claim 1, in view of Yamamoto does not specifically teach storing data relating to dropped calls for future use. Wu teaches storing data relating to dropped calls for future use (page 2, paragraphs 0024, 0027). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Prehofer in view of Yamamoto to incorporate the feature of storing data relating to dropped calls in Prehofer's invention in view of Yamamoto's invention as taught by Wu for future use. The motivation for the modification is to do so in order to record call processing failure data such that troubleshooting can be done in order to correct the call processing failure. Furthermore, the modification of storing the dropped calls/call processing failure data and correcting the data gives additional benefit of improving overall system performance.

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*Conclusion*

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Md. Shafiqul Alam Elahee*

MD SHAFIUL ALAM ELAHEE

Examiner

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August 22, 2007